

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

ANGELO FEARS,

Petitioner,

-vs-

MARGARET BAGLEY, Warden,

Respondent.

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Case No. C-1-01-183

:

District Judge Walter Herbert Rice  
Chief Magistrate Judge Michael R. Merz

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**DECISION AND ORDER GRANTING IN PART AND DENYING IN PART  
PETITIONER'S MOTION FOR EXTENSION OF TIME**

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This case is before the Court on Petitioner's Motion for Extension of Time to File Objections to the Magistrate Judge's Supplemental Report and Recommendations on the merits (Doc. No. 125). In compliance with S. D. Ohio Civ. R. 7.3, Petitioner's counsel sought the consent of Respondent's counsel, which was declined.

The Supplemental Report and Recommendations (Doc. No. 124) was filed October 10, 2006, making the usual date for objections October 27, 2006. Petitioner seeks a three-month extension of that time, to wit, to January 27, 2007. The stated grounds for the extension are that

Co-Counsel Prucha was substituted in this case after the evidentiary hearing and requires additional time to review numerous boxes of documents to prepare the objections to the Supplemental Report and Recommendations. It is also believed that she must include the initial objections that were done by Attorney Greger so as not to waive any of the grounds for relief.

(Motion, Doc. No. 125, at 1.)

With respect, the Court notes that Ms. Prucha has been counsel of record in the case since

November 9, 2004, or nearly two years. Furthermore, counsel were allowed nearly five months from the time the initial Report and Recommendations was filed (November 8, 2005) until they were required to file the objections to that Report.

Finally, the Motion suggests that the Petitioner's objections might now be somehow broadened from those which were made to the initial Report. The purpose of a supplemental report to consider objections is to narrow the issues in the case and it would be inappropriate to attempt to broaden them again after a supplemental report is filed. To put it another way, objections which could have been made to the original report but were not are now waived. *See United States v. Walters*, 638 F. 2d 947 (6<sup>th</sup> Cir., 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).

Accordingly, Petitioner's time for objections to the Supplemental Report is hereby extended to and including December 1, 2006.

October 24, 2006.

s/ Michael R. Merz  
Chief United States Magistrate Judge